

§ 776.85 Finality.

Any action taken by JAG is final subject to any remedies afforded by Navy Regulations to the concerned counsel.

§ 776.86 Report to bar.

Upon determination by JAG that a violation of subpart B of this part or the Code of Judicial Conduct has occurred, JAG may cause the Rules Counsel to report that fact to the licensing authorities of the attorney concerned. If so reported, notice to the concerned attorney shall be provided by the Rules Counsel.

§§ 776.90 [Reserved]

Subpart D—Outside Part-Time Law Practice of Naval Service Attorneys

§ 776.90 Background.

(a) A DON attorney's primary professional responsibility is to DON, and he or she is expected to devote the required level of time and effort to satisfactorily accomplish assigned duties. In addition to the obligations of an attorney engaged in the outside practice of law to comply with local bar rules governing professional responsibility and conduct, DON attorneys remain bound by subpart B of this part.

(b) Outside employment of DON personnel, both military and civilian, is limited by Executive Order 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306, and Secretary of the Navy Instruction 5370.2J, Standards of Conduct [available on request from the Office of the Judge Advocate General, Administrative Law Division, 200 Stovall Street, Alexandria, VA 22332-2400]. Additionally, section 0710 of the Manual of the Judge Advocate General prohibits active duty judge advocates and civilian attorneys under the supervision of JAG from accepting or receiving, directly or indirectly, any fee or compensation of any nature for legal services rendered to those persons eligible for legal assistance under article 0706 of the Manual of the Judge Advocate General, whether or not the service is rendered during duty hours, or is part of official duties.

(c) Additionally, DON officers and employees are prohibited by 18 U.S.C. 209 from receiving pay or allowances from any source other than the United States for the performance of any official service or duty unless specifically authorized by law. Furthermore, 18 U.S.C. 203 and 205 prohibit Federal officers and employees from personally representing or receiving, directly or indirectly, compensation for representing any other person before any Federal agency or court on matters in which the United States is a party or has an interest.

(d) These limitations are particularly significant when applied to DON attorneys who intend to engage concurrently in a civilian law practice. In such a situation, the potential is high for actual or apparent conflict arising from the mere opportunity to obtain clients through contacts in the course of official business. Unique conflicts or adverse appearances may also develop because of a DON attorney's special ethical responsibilities and loyalties.

§ 776.91 Definition.

Outside part-time law practice is defined as any regular provision of legal advice, counsel, assistance or representation, with or without compensation, that is not performed pursuant or incident to duties as a naval service attorney. Occasional uncompensated assistance rendered to relatives or friends is excluded from this definition. Teaching a law course as part of a program of education or training offered by an institution of higher education is not practicing law for purposes of this part.

§ 776.92 Policy.

(a) As a general rule, JAG will not approve requests to practice law part-time in association with lawyers or firms which represent clients with interests adverse to DON.

(b) JAG's approval of a particular request does not constitute DON certification of the requesting attorney's qualifications to engage in the proposed practice or DON endorsement of activities undertaken after such practice begins. Furthermore, because any outside law practice is necessarily beyond the scope of a DON attorney's official duties, the requesting attorney